

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

FELIX BRIZUELA,

Plaintiff,

v.

CIVIL ACTION NO. 2:22-cv-00345

WEST VIRGINIA BOARD OF  
OSTEOPATHIC MEDICINE,

Defendant.

**MEMORANDUM OPINION AND ORDER**

On August 17, 2022, the Plaintiff, proceeding *pro se*, filed his *Complaint* (Document 1) in this matter. Subsequently, on November 10, 2022, the Plaintiff's *Amended Complaint Against West Virginia Medical Board* (Document 29) was filed. Pending in the matter are *Defendant, West Virginia Board of Osteopathic Medicine's, Motion to Dismiss* (Document 13) filed on September 21, 2022, and *Defendant, West Virginia Board of Osteopathic Medicine's, Motion to Dismiss the Amended Complaint* (Document 30) filed on November 23, 2022.

By *Administrative Order* (Document 8) entered on November 12, 2022, this action was referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On January 9, 2023, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 37) wherein it is recommended that this Court grant the Defendant's motion dismiss the amended complaint (Document 30), dismiss the Plaintiff's amended complaint (Document 29) with prejudice, and remove

this matter from the Court's docket. It is further recommended that the Defendant's initial motion (Document 13) to dismiss the original complaint be denied as moot. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by January 26, 2023.

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and a party's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that *Defendant, West Virginia Board of Osteopathic Medicine's, Motion to Dismiss the Amended Complaint* (Document 30) be **GRANTED**, the Plaintiff's *Amended Complaint Against West Virginia Medical Board* (Document 29) be **DISMISSED with prejudice**, and this matter be **REMOVED** from the Court's docket. The Court further **ORDERS** that *Defendant, West Virginia Board of Osteopathic Medicine's, Motion to Dismiss* (Document 13) be **DENIED as MOOT**.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Aboulhosn, counsel of record, and any unrepresented party.

ENTER: February 1, 2023



IRENE C. BERGER

UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF WEST VIRGINIA